

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

MAR 12 2008

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellant,

v.

JOSEPH M. MEDAWAR,

Defendant - Appellee.

No. 07-50180

D.C. No. CR-05-01017-R-01

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Manuel L. Real, District Judge, Presiding

Argued and Submitted March 3, 2008  
Pasadena, California

Before: WALLACE, GOULD, and IKUTA, Circuit Judges.

The district court committed procedural error by failing to calculate the applicable U.S. Sentencing Guidelines range and by failing to demonstrate its consideration of the sentencing factors established by 18 U.S.C. § 3553(a) when it imposed sentence on Medawar. *Gall v. United States*, 128 S. Ct. 586, 597 (2007),

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

decided after the district court imposed sentence in this case, so requires. *See* 18 U.S.C. § 3553(a), (c); *see also United States v. Miquel*, 444 F.3d 1173, 1176, 1183 (9th Cir. 2006); *United States v. Cantrell*, 433 F.3d 1269, 1279–81 (9th Cir. 2006). Moreover, although the district court imposed a term of imprisonment of one year and one day, which was substantially below the 57–71 month range indicated by the Guidelines, the district court did not provide a significant justification for this deviation. *See Gall*, 128 S. Ct. at 597; *Rita v. United States*, 127 S. Ct. 2456, 2468–69 (2007). In light of these plain procedural errors, we **VACATE** the sentence and **REMAND** for resentencing. *See, e.g., Miquel*, 444 F.3d at 1176, 1183 (2006). We do not address the government’s substantive reasonableness arguments or its request that we provide guidance to the district court on the lower limits of a reasonable sentence because the district court’s procedural errors leave the record inadequate for purposes of “substantive reasonableness” review. *See Gall*, 128 S. Ct. at 597; *see also Rita*, 127 S. Ct. at 2468–69.

**VACATED** and **REMANDED** for resentencing.